

## CHAPTER 152: SUBDIVISION REGULATIONS

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### **GENERAL PROVISIONS**

#### **§152.01 PURPOSES**

The provisions of these regulations are designed and enacted for the following purposes: to promote the orderly development of the town and its environs; to promote the coordination of streets within subdivisions with existing or planned streets or with public facilities; to secure adequate rights-of-way or easements for street or utility purposes; to secure adequate spaces for recreation, open space, and school sites; to provide for the distribution of population and traffic in a manner which will avoid congestion and overcrowding; protect and enhance environmental quality; and to create conditions essential to health, safety, convenience and the general welfare.

#### **§152.02 JURISDICTION**

The provisions of these regulations apply to all subdivision activities for which approval under these regulations is required in the Town of Matthews and its extraterritorial jurisdiction.

#### **§152.03 SEPARABILITY**

If any section, paragraph, subdivision, clause or provision of these regulations is judged invalid by a court of competent jurisdiction, such judgment shall apply only to such section, paragraph, subdivision, clause or provision so judged and the remainder of these regulations shall be considered valid and effective.

#### **§152.04 COMPLIANCE WITH OFFICIAL PLANS**

When a proposed subdivision embraces any part of a proposed thoroughfare, school, park, or recreation site, or other public facility which has been designated in the officially adopted plan of the town, that planned facility shall be platted and designated by the subdivider in the location shown on the plan in accordance with Sections 152.21(L), 152.21(M), 152.21(N), and 152.21(O).

#### **§152.05 AMENDMENTS**

1. This chapter may be amended from time to time by the Town Board of Commissioners, but no amendment shall become effective unless it has been submitted to the Planning Board for review and recommendations. The Planning Board shall have 45 days within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have approved the amendment. Further, no amendment to this chapter shall become effective until the Board of Commissioners have held a public hearing on the proposed amendment. Notice of the public hearing shall be published once per week for two successive weeks in a newspaper of general circulation within the planning area. The notice shall be first published not less than 10 days nor more than 25 days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

#### **§152.06 VARIANCES**

(A) *General.* Where the Planning Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may recommend, and the

## Subdivision Regulations

Board of Commissioners may authorize, variances to these regulations, provided that the variances shall not have the effect of nullifying the intent and purpose of these regulations; and further provided that authorizations for variances are based on evidence in each specific case that:

1. The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or
2. The difficulty or hardship from the application of these regulations would prevent the owner from making reasonable use of the property; or
3. The granting of a variance would permit the preservation of an historic structure or site; or
4. The granting of a variance would permit the preservation of a mature grove of hardwood trees or a significant specimen tree.

(B) *Procedures.* Wherever practicable a request for a variance should be submitted in writing by the subdivider at the time the sketch plan is submitted for review by the Planning Board. The request shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

### §152.07 ENFORCEMENT

(A) After the effective date of this ordinance, a plat of a subdivision filed or recorded in the office of the Register of Deeds of Mecklenburg County without the approval of the Board of Commissioners as required by these regulations, shall be null and void.

(B) No street shall be maintained or accepted by the Town, nor shall any permit be issued by an administrative agent of the town for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required to be approved, unless and until the requirements set forth in these regulations have been complied with and the final plat has been approved.

(C) Any person who, being the owner or agent of the owner of any land located within the area of jurisdiction of these regulations, transfers or sells that land by reference to a plat showing a subdivision of that land before the plat has been approved by the Town Board of Commissioners and recorded in the office of the Register of Deeds of Mecklenburg County shall upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding \$500 or imprisonment not exceeding 30 days, whether or not the unapproved plat is specifically mentioned in the instrument of transfer used in the process of selling or transferring that land. The Town, through the Town Attorney or other official designated by the Board of Commissioners, may enjoin the

transfer or sale by action for injunction. These regulations shall not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of these regulations.

### §152.08 TOWN'S ACCEPTANCE OF DEDICATED LANDS OR FACILITIES

The Town Board of Commissioners are authorized by the General Statutes of North Carolina to accept the dedication of lands or facilities for streets, parks, public utility lines, or other public purposes when the land is located within the town's subdivision regulation jurisdiction. However, the town shall not be held liable to open, operate, repair, or maintain a street, utility line, or other land or facility by virtue of an acceptance.

### §152.09 ACCEPTANCE OF STREETS WITHIN SUBDIVISION

(A) The approval of a preliminary or final plat by the Board of Commissioners shall not constitute the acceptance by the town of any street, public utility line, or other public facility or ground shown upon that plat.

(B) The Town shall not maintain, lay out, open, improve, grade, pave, or light any street or authorize the laying of water mains, sewers, connections, or other utilities in any street unless that street has been accepted as a public street by a resolution adopted by the Board of Commissioners in a regular or duly called special session.

(C) The Board of Commissioners shall not adopt any resolution accepting a new street unless:

(1) The Board has received a written request from the subdivider or from a majority of the property owners along a street that the street be accepted as a public street for maintenance by the town.

(2) The Board of Commissioners receives a report from the Public Works Director that:

(a) Either final approval of the street or streets was granted by the Mecklenburg County Engineer and the Town Public Works Director at least one year prior to the time of the request for maintenance or that the street or streets existed as a public street prior to the effective date of these regulations and as such have functioned as a street or streets for a least one year; provided that this one-year testing period may be waived by the Board of Commissioners in cases where the development density set forth in division (C) (2) (b) of this section has been met and the Board of Commissioners finds that the street or streets requested for maintenance would suffer damage from further delay of application of the final surface course required under Section 152.24(G);

(b) At least 80% of the lots fronting on the street or streets requested for maintenance have an occupied dwelling unit located thereon; and

(c) Any defects which have appeared in new streets during the one-year waiting period, or in the case of existing streets, any defects identified by the Public Works Director at the time the request for maintenance is made have been repaired.

(3) The Board of Commissioners determines that the street corresponds in its location and aligns with a street shown on a preliminary subdivision plat formally approved by the Board of Commissioners or that the street was established as a public street prior to the adoption of these regulations and therefore not subject to these regulations.

(D) The security bond as required by the County Engineer according to Section 152.24(G) shall not be released prior to acceptance of the street by the Board of Commissioners or by the North Carolina Department of Transportation (NCDOT).

#### **152.10 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALLEY.** A public or private right-of-way primarily designed to serve as access to the side or rear of those properties whose principal frontage is on some other street.

**BOARD OF EDUCATION.** The Charlotte-Mecklenburg Board of Education.

**CHARLOTTE-MECKLENBURG LAND DEVELOPMENT STANDARDS MANUAL.** The manual of construction standards and details which illustrates and controls the provision and construction of public and private improvements relating to streets, sidewalks, drainage and other facilities.

**CONTIGUOUS.** Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

**CORNER LOT.** A lot which abuts the right-of-way of two streets at their intersection.

**COUNTY ENGINEERING DEPARTMENT.** The Mecklenburg County Engineering and Building Standards Department.

**COUNTY ENGINEER.** A representative of the Mecklenburg County Engineering and Building Standards Department.

**CUL-DE-SAC.** A local street with only one outlet that terminates in a vehicular turnaround.

**DEPARTMENT OF ENVIRONMENTAL HEALTH.** The Mecklenburg County Department of Environmental Health.

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.** The North Carolina State Department of Environment and Natural Resources.

**FINAL SUBDIVISION PLAT, FINAL PLAT, OR RECORD PLAT.** The map of a subdivision to be recorded after approval by the Board of Commissioners

**GRADE.** The slope of a road, street, or other public way specified in percentage terms.

**LOT.** A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development.

**PLANNING AREA.** The land located within the zoning jurisdiction of the town.

**PLANNING BOARD.** The Planning Board of the town.

**PLAT.** A map or plan of a parcel of land which is to be, or which has been, subdivided.

**REVERSE FRONTAGE.** The configuration of lots or a development site so that vehicular access to the lots or development site does not involve individual driveway connections to the street for which the access is restricted, but rather is from another means such as a public street which either intersects or runs parallel to the street for which access is restricted or a private street or easement. Reverse frontage does not relate to any particular orientation of the structure to the street.

**ROAD RIGHT-OF-WAY WIDTH.** The distance between property lines on either side of the roadway measured at right angles to the center line of the street. In cases where the right-of-way has not been recorded through the subdivision process, the right-of way width is the area maintained by the Town or the State.

**STREET CLASSIFICATION SYSTEM.** The

system of streets in the town as defined by design and function. The classification system is as follows.

(1) *Freeway or Expressway - Class I.* A multi-lane, grade separated, limited access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate large traffic volumes at high speeds. Such a facility may be part of the interstate, federal or state primary highway system. A Class I road shall be built to or approaching interstate design standards.

(2) *Limited Access Arterial Street - Class II.* A multi-lane limited access major road connecting major activity centers or major roads. It is designed to accommodate large volumes of traffic at moderate speeds. Intersections are at grade, with access only at cross streets rather than at individual driveways.

(3) *Major Arterial - Class III.* A multi-lane major roadway connecting Class I, II or III streets with lower classed streets in the network. The Class III road may also provide connections between this and other regions. It is designed to accommodate large volumes of traffic at moderate speeds, but it is not intended to provide primary access to adjoining high trip generating uses.

(4) *Commercial Arterial Street - Class III-C.* A multi-lane, major roadway connecting Class I or Class II roads with lower classed streets in the network, the Class III-C road may also connect this region to other regions. It is designed to accommodate large volumes of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential high trip generating land uses. A Class III-C road may be part of state primary or secondary highway systems.

(5) *Minor Arterial - Class IV.* A roadway, frequently two lanes, providing a connection from Class II and Class III roads to lower classed streets in the network. It is designed to accommodate traffic at moderate speeds. It does not have a significant function in connecting this region to other regions. Therefore, it usually only handles trips for short to moderate distances.

(6) *Collector Street - Class V.* A roadway which assembles traffic from local streets, and distributes it to the nearest arterial street. The Class V road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

(7) *Local Street - Class VI.* This is a two lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to local limited and Class V streets which serve the area. The Class VI road is designed to accommodate low volumes of traffic at low speeds.

(8) *Local Limited Street - Class VI-L.* A local limited street serves the same system function as the Class VI street but is located in residential environments which have been created through special conditions or design considerations. These unique environments include planned developments and other similar techniques, or cul-de-sac streets in conventional subdivisions. A Class VI-L street may not provide vehicular access to elementary, middle or senior high schools, colleges, or official sites for such schools or to proposed places of public assembly including public or private parks, recreation facilities, or greenways.

**SUBDIVIDER.** Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as defined in this section.

**SUBDIVISION.** A subdivision shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the requirements of these regulations:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of these regulations;

(2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets; and

(4) The division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceeds the standards of these regulations and the underlying zoning district.

**SUBDIVISION, LIMITED.** A subdivision that is not otherwise exempt from the provisions of these regulations and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres. For such subdivisions the owner shall be required to plat only those parcels of less than ten (10) acres and only those parcels shall be subject to the requirements of these regulations.

**SUBDIVISION, MINOR.** Any subdivision containing not more than nine (9) lots fronting on an existing street that does not involve any of the following:

(1) The creation of any new public streets or street right-of-way, or improvements to an existing street.

(2) The extension of any needed rights-of-way or easements for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.

(3) The installation of drainage improvements through one or more lots to serve one or more other lots.

(4) The installation of a private waste water treatment plant or a private water supply system for more than one lot or building site.

**THOROUGHFARE.** Any street designated on an adopted thoroughfare plan or any street which is an extension of any street on a thoroughfare plan and which extends into the area not covered by a thoroughfare plan. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as Class I, II, III, III-C, or IV.

**THOROUGHFARE PLAN.** The most current plans approved by the Town Board of Commissioners which indicate the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation. The words thoroughfare plan and arterial street plan are used synonymously.

**TOWN.** The Town of Matthews.

**TOWN BOARD OF COMMISSIONERS.** The Board of Commissioners of the Town of Matthews.

**TOWN PUBLIC WORKS DIRECTOR.** The Public Works Director of the Town of Matthews.

**TRAFFIC CALMING DEVICES.** Speed humps, speed tables, traffic circles, chicanes and other devices designed to control speeding and high through-traffic volumes on town streets.

**VARIANCE.** An action requesting consideration for relief from the strict enforcement of the standards of these regulations where special circumstances or unusual considerations may exist on the parcel of land.

## THE SUBDIVISION PROCESS

### 152.20 COMPLIANCE REQUIRED.

After the effective date of these regulations, no plat of a subdivision of land subject to the jurisdiction of these regulations shall be filed or recorded by the County Register of Deeds until it has been submitted to, and approved by, the Board of Commissioners.

### 152.21 GENERAL REQUIREMENTS

The following statements provide general requirements and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of these regulations.

(A) *Consistency with adopted public plan and policies.* All subdivisions of land approved under these regulations should be consistent with the most recently adopted plans and policies for the area in which they are located and conform to the dimensional requirements of the underlying zoning. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities

(B) *Conformity.* All proposed subdivisions should be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas where nearby development has occurred, new subdivisions should be planned to protect and enhance the stability, environment, health and character of the neighboring area.

(C) *Extension of existing streets.* The proposed street system should extend streets on their proper projections at the same or greater width than the minimum required by these regulations. Emphasis will be placed on the adopted thoroughfare plan and any adopted small area plans in the determination of street extensions and connections.

(D) *Access to adjoining unsubdivided property.* The proposed street system should be designed to provide for desirable access to and not to impose undue hardship upon unsubdivided property adjoining the subdivision and to provide interconnection to similar adjacent uses when such connection would facilitate traffic movement in the area. Reserve strips adjoining street rights-of-way for the purpose of preventing access to adjacent property are not permitted.

(E) *Relationship to topography.* In sloping terrain, streets should parallel the contours of the land insofar as practicable, to avoid steep grades and the concentration of storm water surface runoff.

(F) *Mature trees and Natural Vegetation.* Streets and development sites should be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Streetscape trees shall be incorporated along all new public or private streets, and should utilize existing trees to the greatest extent possible. Streetscape trees shall follow the Town's adopted plans along existing roads. Interior landscaping within newly platted lots should be designed to incorporate and preserve existing trees. (Ord. No. 1618, passed 4-14-08)

(G) *Access to parks, schools, greenways, etc.* Streets should be designed or walkways dedicated to assure

convenient access to parks, greenways, playgrounds, schools and other places of public assembly. Dedicated walkways or easements may not be less than 15 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.

(H) *Encourage neighborhood connectivity.* Whenever practicable residential subdivisions should be designed to connect to adjacent neighborhoods by street, bicycle trails or walking paths in such a manner as to allow for access between neighborhoods and for improved access for emergency services without encouraging through traffic.

(I) *Relationship to railroad rights-of-way.* When a subdivision adjoins a railroad right-of-way the subdivider may be required to arrange the street pattern to provide for the future grade separation of street and railroad crossings.

(J) *Half streets.* Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street should be platted within such tract. New half streets are prohibited.

(K) *Parallel streets along thoroughfares.* Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required by the Town or the North Carolina Department of Transportation (NCDOT) to provide a street parallel to the highway or to utilize reverse frontage on an interior street for the lots to be developed adjacent to the highway. Where reverse frontage is established, deed restrictions or other means should be provided to prevent private driveways from having direct access to the highway or street.

(L) *Public Park, Greenway, Recreation, and Open Space sites.* The subdivider of each subdivision for residential purposes shall dedicate a portion of such land or pay a fee in lieu of land dedication, in accordance with Sections 152.40 and 152.41, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision. The lands dedicated under Section 152.40 may not be credited toward the open space requirements of the Cluster provisions (Section 153.093) of the Town of Matthews Zoning Ordinance.

(M) *Public School Sites.* When a tract of land that appears in an adopted plan or policy document as a future public school site falls within an area proposed to be subdivided, Town Staff shall notify the Charlotte-Mecklenburg Board of Education of the proposed subdivision and its affect on the future public site. The Board of Education must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision shall be processed in the normal fashion. If the Board of Education does wish to reserve the site, then the subdivision shall not be approved without such reservation. The Board of Education shall have 18 months from the date of preliminary plan approval to acquire the site

by purchase, receipt of a dedication or by initiating condemnation proceedings. The Board of Education may also choose to release the site from reservation at any time prior to the end of the 18 month period. If at the end of the 18 month period, none of the actions listed above have commenced the subdivider may consider the land free of any reservation.

(N) *Public Facilities.* When a tract of land that appears in an adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing, or other public use sites falls within the area proposed to be subdivided, the Town staff shall notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision shall proceed in the normal fashion. If the agency does wish to reserve the site, then the subdivision shall not be approved without such reservation. The appropriate agency shall have 18 months from the date of preliminary plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. The appropriate agency may also choose to release the site from reservation at any time prior to the end of the 18 month period. If, at the end of the 18 month period, none of the actions listed above have commenced the subdivider may consider the land free of any reservation.

(O) *Thoroughfare rights-of-way.* Whenever a tract of land to be subdivided includes any part of any arterial street shown on any thoroughfare plan adopted by the Town Board of Commissioners, the right-of-way for the arterial street shall be platted and dedicated or reserved in accordance with Sections 152.30(B) and 152.50(A).

(P) *Street names.* Proposed street names should not duplicate nor too closely approximate phonetically the name of any street within the town or county. Where proposed streets are extensions of existing streets, the existing names should be used, except where a new name can reasonably be used to facilitate the proper house numbering or to avoid further street name duplication. Names shall not be used as part of street names if used in two other locations within the county.

(Q) *Subdivision names.* Proposed subdivision names should not duplicate nor too closely approximate phonetically the name of any subdivision within the town. Any subdivision name shall not include names used two or more times as part of names of streets, residential subdivisions, commercial subdivisions or apartment complexes within the county except where the new subdivision is an extension of or adjacent to an existing subdivision with the same name.

(R) *Easements.* Easements established to the width and in the locations required by the County Engineer and the Town Public Works Director or the Charlotte-Mecklenburg

Utility Department as appropriate, but in no case less than 15 feet wide, should be provided for open or piped storm drainage, sanitary sewers and water lines. This requirement applies to such lines installed at the time of the development of the subdivision or which may exist and are not being relocated.

(S) *Proposed water and sewerage system.* The preliminary subdivision plan should be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.

(1) Where these systems are to be a part of the Charlotte-Mecklenburg public water and sanitary sewerage system, the acceptability of the proposed system should be attested by the approval of the preliminary subdivision plan by the utility department or a letter from the utility department stating the availability of water and/or sewer service and that the subdivision shall be allowed to connect to the system upon completion and dedication of the systems in the development.

(2) When the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the Charlotte-Mecklenburg Utility Department, the proposed systems must meet the Charlotte-Mecklenburg Utility Department Standards and shall be reviewed and approved by the agency or agencies with jurisdiction over the approval. Evidence must be provided by the developer prior to the preliminary plan approval of the required soil and site evaluation. Prior to the approval of the final plat evidence must be provided that both the sewer and water system designs meet Charlotte-Mecklenburg Utility Department Standards and have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.

Where local standards exceed those of State or Federal agencies and where those standards may be enforced over those of State or Federal agencies, then the State Department of Environment and Natural Resources shall coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Department of Environment and Natural Resources.

(T) *Storm Water.* When a tract of land to be subdivided must adhere to the Matthews Post Construction Ordinance, then all requirements and procedures of that ordinance must be followed.  
(Ord. 1585, passed 8-13-07)

(U) *Restrictions on the subdivision of land subject to flooding.* Lots that are subject to flooding should not be established in subdivisions except as provided in Section

152.31(D).

## §152.22 CLASSIFICATION OF SUBDIVISIONS

Before any land is subdivided the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which include two (2) principal steps for a minor subdivision and three (3) principal steps for a major subdivision:

### (A) *Minor Subdivision.*

1. Sketch Plan
2. Final Subdivision Plat

### (B) *Major Subdivision*

1. Sketch Plan
2. Preliminary Plan
3. Final Subdivision Plat

## §152.23 SKETCH PLAN

(A) Prior to the filing of an application for approval of the preliminary plan, a sketch plan must be submitted to the Planning Board for review and recommendations. When submitted, this sketch plan shall be on a topographical survey and shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of the topographical survey. It shall include the following information:

(1) The boundary lines of the property being subdivided;

(2) Water courses on the land to be subdivided;

(3) The location, names, and right-of-way width of any existing streets or proposed thoroughfares on or within 300 feet of the land to be subdivided;

(4) The location of all land to be dedicated for public park, greenway, recreation and open space sites as required by Section 152.40 or notation that the subdivider will request payment of fees in lieu of land dedication pursuant to Section 152.41; and

(5) The location of all property lines which intersect the boundaries of the property being subdivided.

(B) A declaration of understanding that zoning variances associated with the building envelope on any lots within the subdivision are not anticipated shall be submitted

with the sketch plan. The declaration form is included as Appendix A.

(C) Review of the sketch plan does not vest the owner or developer with any developmental rights.

#### **§152.24 PROCEDURES FOR PRELIMINARY PLANS AND FINAL PLATS.**

(A) A preliminary plan of the proposed subdivision developed in accordance with the specifications set forth in Section 152.25 shall be submitted to the Town Planning Department and the Mecklenburg County Engineering Department. Three (3) copies of the plan are to be submitted to the Town Planning Department and the appropriate number of copies as required by County Engineering along with any applicable fees.

(B) The plan will be reviewed by the Plan Review Committee which shall be composed of town, county, and/or state staff as determined to be necessary by the Planning Department. The Plan Review Committee shall have 30 days from the date of receipt of the plan by the Planning Department in which to review, comment and approve the plan if all requirements are met. All proposed street names and the proposed subdivision name shall be sent to all local emergency agencies for comments. If necessary the applicant shall submit a revised preliminary plan to the Town Planning Department and to the County Engineering Department. The Plan Review Committee shall review the revised plan and if all issues have been resolved the plan will then be signed by County Engineering as meeting all required standards.

(C) The plan shall be submitted to the Board of Commissioners by Town Staff for its action. The Board of Commissioners shall review the plan no later than the third regular meeting of the Town Board of Commissioners following submission of the plan to the Board of Commissioners, provided that the applicant may waive this requirement and consent to a time extension for acting upon the plan. The Board of Commissioners may either approve, disapprove, or conditionally approve the preliminary plan. If the plan is conditionally approved, the minutes of the meeting of the Town Board of Commissioners shall state the measures necessary for the final plan to be approved.

(D) A preliminary plan approved under the provisions of these regulations shall be valid for a period of three years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three year period, the preliminary plan approval shall become null and void and a new application shall be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements beyond initial grading, the plan shall remain valid and in force and the subdivision may be completed in

accordance with the approved plan.

#### **(E) Final Plat.**

(1) Upon approval of the preliminary subdivision by the Town Board of Commissioners, the subdivider may proceed to comply with other requirements of these regulations and the preparation of the final plat. A final plat may be submitted for the full development or for a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing street shown on the preliminary plan are provided for prior to any final plat approval. The final subdivision plan shall be developed in accordance with the specifications of Chapter 152.

(2) The official plat or plats for recording, together with required copies and "as built" drawings and electronic copies as required, shall be presented for approval to Mecklenburg County Engineering, who shall approve or disapprove the final plat within 30 days after it is submitted to County Engineering, and if not approved or disapproved within 30 days, it shall be deemed approved. The final plat with required copies shall then be submitted to the Board of Commissioners. The Board of Commissioners shall approve the final plat if that final plat and the required improvements are in accordance with the preliminary plan approved by the Board of Commissioners. Action shall be taken by the Board of Commissioners on the final plat within 45 days, generally at its next available meeting.

(F) Upon approval by the Board of Commissioners of the final plat, town approval shall be executed and the final plat delivered to the applicant for recordation in the office of the County Register of Deeds.

(G) Final approval of subdivision plats shall be granted upon installation of or provision for improvements required by this chapter, except the final one-inch surface course, when paving according to Section 152.50(C). Following final approval of the plat and before issuance of any building permits, a bond or other approved form of security in an amount determined by the County Engineer shall be filed with the County Engineer to assure that this final one-inch surface course will be applied to the street once the street has met the conditions outlined in Section 152.09 for acceptance for maintenance. The delayed application of the surface course shall be considered as a testing period for the streets installed in order that any defects or deficiencies will have had at least one full cycle of seasons in which to appear, except as provided for in Section 152.09 where the Board of Commissioners waives the one-year waiting period. In the event that defects or deficiencies do appear, the developer shall repair those defects in a manner approved by the Town Public Works Director and the County Engineer prior to applying the final one-inch surface course.



**§152.25 PRELIMINARY PLAN REQUIREMENTS.**

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed below. No processing or review of a preliminary plan shall proceed without all of the information listed.

(A) The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements, or other significant features of the tract.

(B) The location, sizes, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent to the tract.

(C) Original contours at intervals of not less than five feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum when a bench mark is within 2,000 feet of the subdivision.

(D) Proposed contours for the full width of all street rights-of-way along drainage channels and in all other portions of the subdivision where extensive grading is planned. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.

(E) The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, land dedication areas required by Section 152.40, other property lines and building setback lines with street dimensions, tentative lot dimensions, other property lines, and the location of any building restriction flood lines required by Section 152.31(D).

(F) The location of proposed traffic calming devices. Type, location and design of such devices shall be coordinated with and approved by the Town Public Works Director.

(G) The location of all proposed storm drains, retention facilities, BMPs, rain gardens, swales, etc., and appurtenances with grades, inverts, and sizes indicated, together with a map of the drainage area or areas above or below the proposed storm drains, and a copy of the data used in determining the sizes of drainage pipes and structures. These drawings shall be coordinated with the Streetscape Trees to clearly indicate that the proposed placement of any storm water feature does not conflict with any existing or proposed new streetscape tree. (Ord. No. 1618, passed 4-14-08)

(H) The name of the subdivision; the name of the owner; the name of the surveyor, engineer or designer; the

names of proposed streets; the names of adjoining subdivisions or property owners and the number of housing units.

(I) The scale of the plan which shall not be smaller than 100 feet to the inch; north point; and date.

(J) Typical cross sections of proposed streets showing width and proposed construction of roadways.

(K) Proposed profiles of roadways. Where a proposed street is an extension of an existing street, the profile shall be extended to include 300 feet of the existing roadway and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where that street may be expected to extend into the adjoining tract of land, the profile shall be extended to include 300 feet of the adjoining tract.

(L) A small scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.

(M) The proposed method of water supply and sewer disposal. Where public water or public sewer is not available for extension to each lot in the subdivision, a written statement from the Mecklenburg County Department of Environmental Health shall be submitted with the preliminary plan indicating that each lot has adequate land area and soil conditions to accommodate the proposed methods of water supply and sewage disposal.

(N) The location of any existing demolition landfill on the site and the location of any proposed demolition landfill sites if such information is available.

(O) A timetable for estimated completion of the area covered by the preliminary plan.

**§152.26 FINAL PLAT REQUIREMENTS**

(A) The final plat shall be prepared by a North Carolina registered surveyor or engineer, shall be drawn to scale not smaller than 100 feet equal to one inch, shall meet size requirements for recordation, and shall contain the following information:

(1) The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract except for limited subdivisions as defined in Section 152.10.

(2) The lines and names of all streets, alley lines, lot and block numbers, addresses as assigned by the County Engineering Department, building lines, easements, reservations and areas dedicated to public use with notes stating their purposes and building restriction flood lines as required by Section 152.31(D).

(3) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, building line, easements required or of record in Mecklenburg County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths. The maximum allowable error of linear closure shall not be in excess of 1:10,000. In closed traverses, the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.

(4) The name of the Township in which the subdivision is located, the name of the subdivision, the name of the owner, the name, the registration number, and seal of the North Carolina registered engineer or surveyor under whose supervision the plat was prepared, the date of the plat, and north point, with indication of whether the north point is true, magnetic or grid, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.

(5) The accurate location of monuments which must be established at or near the corners of all blocks including coordinates computed from the North Carolina Plane Rectangular Coordinate System, provided a control monument is within 2,500 feet of the subdivision. These monuments shall be concrete posts not less than 30 inches long, four inches at the top and six inches at the bottom with a copper pin in the top to mark the location of the designated point. The monuments shall be placed flush with the level of the ground. The corners of all lots and parcels shall be marked with iron posts driven flush with the ground. Iron posts shall be placed where lot boundaries intersect railroad and State Department of Transportation rights-of-way.

(6) When any portion of the property included in a plat must adhere to the requirements of the Matthews Post Construction Ordinance, then the specific notations as called for in that document must be included on the final plat drawing, and a copy of the Operation and maintenance Agreement and BMP Maintenance Plan stamped by Mecklenburg County Register of Deeds Office with Deed Book and page numbers must be provided with the plat. (Ord. 1585, passed 8-13-07)

(7) Any other information considered by either the subdivider or the Town Board of Commissioners to be pertinent to the review of the final plat.

(8) Where the improvements required by this chapter have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat shall be subject to the subdivider filing a surety bond, cash bond, or an irrevocable letter of credit with the Mecklenburg County Engineering and Building Standards Department, in an amount to be determined by the County Engineer, with sureties satisfactory to the town guaranteeing the installation of the required improvements. Upon completion of the improvements as required by this chapter, written notice shall be given by the subdivider to the County Engineer and the Town Public Works Department; the County Engineer and the Town Public Works Department shall cause an inspection of the improvements to be made and shall, within 30 days of the date of notice, authorize in writing the release of the surety given.

(9) "As built" drawings and plans of all water system, sewer system, and storm drainage system facilities. These plans should show all easements and/or rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later. Electronic copies of final plats, autocad compatible, shall be submitted with "as built".

(10) Where the improvements required by this chapter include a future guarantee for tree maintenance and/or replacement, the approval of the plat shall be subject to the subdivider filing a surety bond, cash bond, or irrevocable letter of credit with the Town in an amount to be determined by the Town to guarantee tree life and health for three years. Upon conclusion of the three-year period, written notice shall be given to the Town by the subdivider; the Town Public Works Department shall cause an inspection of the trees within 30 days of the date of the notice, and shall authorize in writing the release of the surety given. (Ord. No. 1618, passed 4-14-08)

(B) *Certifications required for final plat review.* The signed certificates (lettered or stamped) for certifications 1 and 2 shall appear on each copy of the final plat which is submitted by the subdivider. Certification 3 is required when



## Subdivision Regulations

officials will be responsible for the determination of the classifications of streets or segments of streets. These standards represent the normally required rights-of-way. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas or areas where horizontal or vertical alignments must be improved and will be determined on a case by case basis.

(3) When a subdivider elects to establish a roadway divided with a center strip or median, the right-of-way must be at least 62 feet.

(4) The Class VI-L street may only be used subject to the following conditions:

(a) It serves no more than 10 dwelling units and does not exceed 500 feet in length.

(b) All land which touches the street must be subdivided into lots or is otherwise platted so that a further extension is not possible.

(B) *Arterial Street Right-of-Way (Class I, II, III, III-C, or IV)*. Whenever a tract of land to be subdivided includes any part of an arterial street shown on any thoroughfare plan adopted by the Town Board of Commissioners and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication of the right-of-way up to 100 feet (50 feet on either side of the centerline) and the reservation of greater right-of-way in accordance with the provision of Section 152.50(A). The remainder of the minimum required right-of-way over 100 feet must be reserved and may be dedicated for future rights-of-way use and must be shown as such on the final plat. All measurements involving minimum lot standards under these regulations shall be made at the edge of the right-of-way whether dedicated or reserved and must be shown as such on the final plat.

(1) *Freeways*. Whenever a tract of land to be subdivided includes any part of the proposed right-of-way as shown on a Thoroughfare Plan adopted by the Board of Commissioners, or adopted by the North Carolina Board of Transportation, and whenever those proposed rights-of-way have been further defined by acceptable locational procedures sufficient to identify property to be affected, the right-of-way for the freeway shall be reserved and remain undeveloped pending future acquisition by the State of North Carolina or other governmental unit. The Subdivider shall reserve the proposed right-of-way for a period not to exceed three years from the date of obtaining the approval of the preliminary subdivision plat, after which the land shall be considered as free of reservation.

(2) *Additional Roadways*. The provision

of this section shall also apply to additional roadways that are specifically approved for right-of-way protection by the Board of Commissioners.

### (C) Design Criteria

#### (1) PUBLIC STREETS: CLASSES VI & VI-L

	<u>Level*</u>	<u>Rolling</u>	<u>Hilly*</u>
(a) Terrain Classification	0-8%	8 . 1 - 1 5 %	
15% +			
(b) Min. Sight Distance (ft.)	200	150	110
(c) Maximum Grade	6%	10%	12%
(d) Minimum Radius (ft.)	250	150	90
(e) Minimum Tangent Between			
Reverse Curves	50	50	50
(f) K Values (crest/sag)	28/35	20/20	15/20

#### CLASS V

(a) Terrain Classification	0-8%	8.1-15	15% +
(b) Min. Sight Distance (ft.)	250	200	150
(c) Maximum Grade	4%	8%	10%
(d) Minimum Radius (ft.)	350	250	175
(e) Minimum Tangent Between			
Reverse Curves	100	100	100
(f) K Values (crest/sag)	45/45	28/35	20/20

#### (2) INTERSECTIONS:

	<u>Level</u>	<u>Rolling</u>	<u>Hilly</u>
(a) Terrain Classification	0-8%	8.1-15%	15% +
(b) Clear Sight Distance	35 ft.	35 ft.	35 ft.
(c) Vertical Alignment within			
50 ft. (of intersection)	1%	3%	4%
(d) Minimum Angle of			
Intersection	75 degrees	75 d	75 d
(e) Min. Curb & R/W Radius (ft.)			
1. Classes VI & VI-L	20	20	20
2. Class V	30	30	30
(f) Min. Street Offsets for			
Adjacent Intersections (ft.)			
1. Classes VI & VI-L	125	125	125
2. Classes V	200	200	200

\*Use of level or hilly terrain criteria not permitted without prior approval of the County Engineer.

(3) Design Criteria for arterial streets shall be established by the County Engineer on a case by case basis using the latest edition of the American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets and/or NCDOT Roadway Design Manual and any local design policies.

(4) Intersection corner - A minimum 35' x 35' sight triangle (measured along right-of-way lines) shall be provided at each intersection corner. An additional 10' x 70' sight triangle shall be provided at intersections connecting to NCDOT maintained roadways. Additional sight distance requirements may be required by the NCDOT or the Town of Matthews. Commercial drives connecting to public streets shall be designed in accordance with the NCDOT "Policy on street and driveway access to N.C. Highways" and the Town of Matthews Zoning Ordinance.

(D) *Block Lengths.* Block lengths and width shall not be more than 1,600 feet, except as provided in this subsection. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in less traffic through residential subdivisions from adjoining business or industrial areas, the Board of Commissioners may authorize through the variance process block lengths in excess of 1,600 feet. Block widths shall be sufficient to allow two tiers of lots except where single tiers of lots will facilitate nonresidential development, the separation of residential and nonresidential development, or the separation of residential development from thoroughfares and along collector streets when reverse frontage is used along an adjacent thoroughfare.

(E) *Cul-de-sacs.* Cul-de-sacs shall not be longer than 800 feet and shall be terminated by a circular right-of-way not less than 90 feet in diameter or by an appropriate alternative vehicular turnaround as approved by the Town Public Works Director. This requirement may vary where topographical or other unusual conditions exist which impose an undue burden on the subdivider.

(F) *Roadway divided by a center strip.*

(1) Where a subdivider elects to establish a roadway divided with a center strip, the median shall be at least 5 feet wide and the roadway on either side of the median shall be at least 19 feet wide for a commercial subdivision and for a residential subdivision the median shall be at least 7 feet wide and the roadway on either side of the median shall be at least 18 feet wide (See the Charlotte-Mecklenburg Land Development Standards Manual for detail).

(2) The center strip shall be designated to carry only surface drainage water originating on the roadway and if irrigated subsurface drainage from the center strip. Center strips which contain any other type of drainage systems shall not be acceptable.

(G) *When narrow streets permitted (Class VI-L).* In certain circumstances streets may be constructed on a forty-four foot right-of-way and with a twenty-four foot cross section (twenty foot pavement plus two-foot roll curb). When a street serves 10 dwelling or less and is not more than 500 feet in length, this smaller standard may be used. All

other appropriate standards of these regulations still apply to the construction of such a street.

(H) *Collector street designation (Class V).* The designation of a collector street, or the determination of the need for a collector street shall be based on the criteria below. If the street in question meets at least 2 of the criteria, then the street shall be designated as a collector street and must be built to the appropriate standard.

(1) The street intersects directly with an arterial street (Class I, II, III-C, or IV) and provides access to an area with an overall density of more than 1.0 dwelling unit per acre, or provides access to more than 125 dwelling units.

(2) The street by its general configuration, in relationship to the existing development of the area, in effect serves a collector function.

(3) The street extends into an undeveloped area in such a manner as to serve a future collector function.

(4) The street serves as a primary access to a nonresidential, institutional, or recreational land use, as well as an access to a residential area.

## §152.31 LOTS

(A) *Frontage on streets.* Each lot shall have frontage on a street except where allowed by the town zoning ordinance. However, lots designed for one-family attached dwellings need not front on a street provided that all portions of the dwelling unit proposed for those lots shall be located within 300 feet of a public street that furnishes direct access to the property and that access to each lot be made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership. Lots designed for one-family, semi-detached dwellings need not front on a street, provided that at least one unit of each dwelling group has frontage on a street and that access to each dwelling unit is made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership.

(B) *Side lines.* Side lot lines shall, as nearly as practicable, be at right angles to or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees.

(C) *Minimum sizes.* Lots for residential use shall meet the required widths, depth and area requirements of the town zoning ordinance.

(D) *Lots subject to flooding.* Lots that are subject to flooding shall not be established in subdivisions for the purpose of creating residential building sites except as provided in this sub-section. Lots shall be construed to be subject to flooding when a flood crest recurring with a probable frequency of one time in 100 years would inundate any part of a proposed lot. If any part of a proposed lot is subject to flooding, the subdivider shall make a determination of the crest elevation of the flood expected to be equalled or exceeded, on the average, of one time in one hundred years (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the County Engineer. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions. No proposed building lot that is subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour as determined by field survey, at an elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the "Building Restriction Flood Line." All habitable buildings or structures shall be located outside the Building Restriction Floodline. All lots subject to flooding as defined by this sub-section, may be approved only if there will be available for building a usable lot area of not less than 2000 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the building restriction flood line. During the construction of a subdivision, the developer shall maintain the stream bed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and banks of the stream all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized storm water drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. The developer shall take all necessary measures to stabilize the stream bed at end of construction.

#### **§152.32 STREET MARKERS AND BARRICADES**

(A) Standard street markers shall be installed at one corner of all street intersections. The design, material, location, and installation of the signs shall be in accordance with standards specified by the Town Public Works Department.

(B) Barricades shall be installed at the end of all dead-end streets, except cul-de-sacs which have been

improved with permanent turnaround as required by this chapter. These barricades shall have a minimum length of 25 feet, plus end sections. Design, material and installation of the barricades shall be in accordance with standards as specified in the Charlotte-Mecklenburg Land Development Standards Manual. Reflectorized material shall be placed on the barricade in accordance with the standards.

#### **152.33 DESIGN STANDARDS FOR S.W.I.M. (Surface Water Improvement and Management) STREAM BUFFERS**

(A) *Purpose* The purpose of a stream buffer network is to ensure that the stream and adjacent lands will fulfill their natural functions. Stream systems are comprised of the stream and their drainage basins. Streams have the primary natural functions of conveying storm and ground water, storing floodwater and supporting aquatic and other life. Vegetated lands adjacent to the stream channel in the drainage basin serve as a "buffer" to protect the stream system's ability to fulfill its natural functions. Primary natural functions of the buffer include:

- (1) Protect water quality by filtering pollutants;
  - (2) Provide storage for floodwaters;
  - (3) Allow channels to meander naturally;
- and
- (4) Provide suitable habitats for wildlife.

(B) *Definitions.* For the purposes of this section, the following words and phrases shall be defined as specified below:

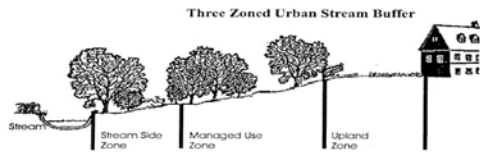
**BEST MANAGEMENT PRACTICES (BMPs).** A structural or nonstructural management based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

**Non-structural BMPs.** Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

**Structural BMPs.** Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. These may include wet detention ponds, detention basins, grass swales and ditches, and infiltration devices.

**BUFFER.** A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

**BUFFER ZONES.** Buffer widths are measured in three (3) zones in Figure 1: a) Stream Side Zone; b) Managed Use Zone; and c) Upland Zone. The buffer width is measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.



**DRAINAGE BASIN.**

The area of land which drains to a given point on a body of water.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

**FLOOD FRINGE.** The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

**FLOODPLAIN.** The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

**MITIGATION.** Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

**SITE SPECIFIC DEVELOPMENT PLAN.** Any review process of a physical layout of a property which requires signed approval by a representative of the Town of Matthews. This may include, but is not limited to, any conditional zoning approvals, any site plan required as a condition of a previous zoning approval, Highway Overlay Compliance, Downtown Overlay Compliance, Landscape Plan, and subdivision preliminary plat.

**TOP OF BANK.** The landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.

(C) *Applicability.*

(1) All properties shall comply with the buffer requirements of this Section except those which, as of the effective date February 14, 2000, have previously secured a right to proceed by:

- (a) Being subject to a recorded subdivision plat;
- (b) Being subject to a preliminary subdivision plan approved by the Board of Commissioners

prior to the effective date of this Section;

(c) Having otherwise secured a vested property right under state law.

(2) Redevelopment or expansion of structures, uses, or other development projects included in (C)(1) above, shall comply with the buffer requirements of this Section; however uses and structures previously approved and constructed in a buffer may remain.

(3) A site specific development plan amended by action of the Board of Commissioners subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements, however uses and structures previously approved for construction in a buffer may remain.

(D) *Buffer Standards*

(1) *Minimum Buffer Widths.* Minimum stream buffer widths vary based on the size of the upstream drainage basin, as described in the following table. Mecklenburg County's Geographic Information System will locate streams and delineate the size of drainage basins associated with each.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
≥640 acres	30 feet	45 feet	Balance of floodway PLUS 100% of flood fringe, but no less than 25 feet	Floodway PLUS 100% of flood fringe, but no less than 100 feet	(1), (2)
≥300 acres	20 feet	20 feet	10 feet	50 feet	(1)
≥50 acres	20 feet	None	15 feet	35 feet	(1)

Notes:

(1) Buffer widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

(2) Floodplain and buffer calculations will be based upon the flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

(2) *Buffer Description.* Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
<b>Function</b>	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
<b>Land Disturbance/ Vegetative Requirements</b>	<b><u>Undisturbed (no cutting, clearing or grading).</u></b> If existing tree density is inadequate, reforestation is required.	<b><u>Limited clearing (no grading).</u></b> Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6 inch caliper per 1000 square feet. If existing tree density is inadequate, reforestation is encouraged.	<b><u>Herbaceous ground cover,</u></b> including grass, is allowed; maintenance of existing forest or reforestation is encouraged.	(1)



<b>Uses</b>	<b>Very restricted.</b> Permitted uses limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular ( $\geq 75^\circ$ ) water and sewer utilities and near perpendicular road crossings ( $\geq 75^\circ$ ) with stabilization of disturbed areas as specified in Section 152.33(E).	<b>Restricted.</b> Permitted uses limited to those allowed in the Stream Side Zone, as well as bikepaths and greenway trails up to 10 feet width.	<b>Restricted.</b> Permitted uses limited to those allowed in Stream Side and Managed Use Zones, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extend of the floodplain, and storm water structural best management practices (BMPs) if approved in accordance with Section 152.33(F)(2) as a condition of a buffer width variance.	(2), (3)
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## Notes:

(1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the Charlotte-Mecklenburg Land Development Standards Manual (Sections 40.01, 40.02, and 40.03 or as revised).

(2) Fill material cannot be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if greenway trails are built they should follow these cleared areas instead of necessitating additional clearing.

(3) Notwithstanding the uses and structures permitted in the "Upland Zone", the stricter standards of floodway regulations, if applicable, shall apply.

(3) *Diffuse Flow Requirement.* Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow and reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg Land Development Standards Manual.

(a) Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.

(b) Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies.

(4) *Ponds.* Ponds that intersect the stream channel shall have the same buffers as the original stream measured from the top of the bank of the pond. Buffer requirements do not apply to wet ponds used as structural BMPs.

(5) *Buffer Delineation.* The following buffer delineations are required:

(a) Stream and buffer boundaries including all buffer zones must be clearly delineated on all site specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.

(b) Buffer boundaries including

all buffer zones must be clearly marked on-site prior to any land disturbing activities. Where existing trees are to be preserved in a buffer zone, limits of grading shall maintain a minimum 20' separation from the base of each tree of 8" DBH or larger on the upland side of the buffer.

(c) The outside boundary of the buffer must be permanently marked on each parcel following the completion of grading activities and prior to occupancy.

(d) Separate buffer zones must be permanently marked at highway stream crossings.

(e) Buffer boundaries including the delineation of each buffer zone as well as all buffer requirements must be specified on all surveys and record plats, on individual deeds, and in property association documents for lands held in common.

(E) *Buffer Impacts Allowed.* The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Land Development Standards Manual for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

(1) Near perpendicular ( $75^\circ$  or greater) road crossings for connectivity or transportation links.

(2) Near perpendicular ( $75^\circ$  or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.

(3) Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Land Development Standards Manual.

(4) Public paths and trails parallel to the creek outside the Stream Side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.

(5) Incidental drainage improvements/repairs for maintenance.

(6) Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.

(7) New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.

(8) Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

#### (F) *Appeals and Variances, With Mitigation*

(1) *Appeals.* An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the requirements of the Matthews Zoning Ordinance.

#### (2) *Special Variance Provisions*

(a) When a difficulty or hardship would result from adherence to the buffer width requirements and/or buffer treatment standards, a request for subdivision variance may be filed with the Matthews Planning Board in compliance with the procedures of Section 152.06(B). Such request shall not be deemed complete for consideration until a written report with recommended actions, including preferred mitigation techniques, from the Town Public Works Director or his designee is provided. It shall be the responsibility of the applicant requesting the subdivision variance to obtain this report.

(b) The standards for granting a variance, as set out in Section 152.06 of these regulations shall be met. Site specific mitigation plans using the techniques below, and approved by the designated agency, shall constitute conditions relating to the intent and standards of this ordinance, and may be attached to variance approval by the Town Board. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Land Development Standards Manual. These techniques are not construed to offset the requirement of Section 152.33(D)(3) for diffuse flow.

(3) *Mitigation Techniques.* The following techniques are available to landowners for mitigation of buffer impacts, in association with the granting of a subdivision variance to specific buffer requirements of 152.33(A) through (E).

(a) *Installation of Structural BMPs.* The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Managed Use Zone. A detailed BMP design plan must be submitted to the Mecklenburg County Department of Environmental Protection for approval based on specifications contained in the Charlotte-Mecklenburg Land Development Standards Manual. This plan must also include a long term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.

(b) *Stream Restoration.* The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by the Mecklenburg County Department of Environmental Protection on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Land Development Standards Manual and receive approval by Mecklenburg County Department of Environmental Protection.

(c) *Stream Preservation.* The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Matthews, Mecklenburg County, or conservation trust, with a plan approved by the Mecklenburg County Department of Environmental Protection.

(d) *Wetlands Restoration.* On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the

implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by the Mecklenburg County Department of Environmental Protection.

(e) *Bottom Land Hardwood Preservation.* On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Plan to be approved by Mecklenburg County Department of Environmental Protection.

(f) *Controlled Impervious Cover for Disturbance landward of Stream Side Zone.* The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Department of Environmental Protection.

(g) *Open Space Development.* The submission of a site specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by Mecklenburg County Department of Environmental Protection.

(h) *Mitigation Credits.* The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Land Development Standards Manual. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.

(i) *Alternative mitigation.* The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section. The owner shall submit such plan with proposed buffer impacts and detailed mitigation information to the Mecklenburg County Department of Environmental Protection for approval. The criteria used to judge acceptability of any alternative plan shall be the degree to which the plan addresses the preservation of the four primary natural functions of stream buffers given in 152.33(A). When considering proposed mitigation alternatives, the Mecklenburg County Department of Environmental Protection shall give equal weight to proposals which utilize the preservation of unique or

endangered habitat or natural areas against proposed buffer impacts. Plans may be submitted in conjunction with a mitigation plan submission to the US Army Corps of Engineers and NC Department of Environment and Natural Resources for proposed stream or wetlands impacts.

(G) *Posting of financial security required.* When structural BMPs (wet detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the Mecklenburg County Department of Environmental Protection, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to the Mecklenburg County Department of Environmental Protection. The owner must also verify the adequacy of the maintenance plan for the BMPs, including the necessary financing to support the proposed maintenance practices. The Mecklenburg County Department of Environmental Protection will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within 30 days of the date of notice.

(H) *Maintenance responsibilities for structural BMPs - Civil Penalties.* Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$500. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action. (Ord. 1124, passed 2-14-00)

### **§152.40 DEDICATION OF OPEN SPACE AND RECREATIONAL LAND**

(A) *General Provisions* The subdivider of each subdivision for residential purposes shall dedicate a portion of such land in accordance with this Section or pay a fee in lieu thereof, in accordance with Section 152.41, for public park, greenway, pathway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision.

(B) *Amount of land to be dedicated.* At least one-thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat, except that any land to be dedicated which lies within the one hundred-year floodplain, any required S.W.I.M. buffers, or has slopes greater than fifteen (15) percent or is included within overhead utility easements shall be dedicated at a rate of at least one-twentieth (1/20) of an acre per dwelling unit.

(C) *Nature of land to be dedicated.* Except as otherwise required by the Town Board of Commissioners at the time of preliminary plan approval, all dedications of land shall meet the following criteria:

(1) *Unity.* The dedicated land shall form a single parcel of land except where the Town Board of Commissioners determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Town Board of Commissioners may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.

(2) *Usability.* At least one-half of the total land dedicated shall be located outside of areas of special flood hazard, S.W.I.M. buffers, alluvial soils, lakes, or other water bodies, and areas with slopes greater than fifteen (15) percent. Land dedicated only for greenways need not follow the requirements of this sub-section.

(3) *Minimum Size.* In general, land dedicated for recreational purposes shall have an area of at least four (4) acres. When the requirements of Section 152.40(B) would create less than four (4) acres, the Town Board of Commissioners may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be dedicated for recreational purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where minimal requirements of this sub-section cannot be met, the provisions of Section 152.41 shall be applicable. Land dedication only for greenways need not follow the requirements of this sub-section.

(4) *Shape.* The shape of the portion of the

dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this sub-section.

(5) *Location.* The dedicated land shall be located so as to reasonably serve the recreation and open space needs of the subdivision for which the dedication was made and shall bear a reasonable relationship to the use of the area by the future inhabitants of the subdivision or residential development.

(6) *Access.* Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least 60 feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access to greenway dedications only shall be at least twenty (20) feet wide.

(7) *Topography.* The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen (15) percent.

(D) *Procedure for dedication of land.* The dedication of land shall be reviewed for recommendations by the Planning Board and the Parks and Recreation Director as part of the Sketch Plan review process prior to the filing of an application for approval of the Preliminary Plan. The subdivider shall designate on the Sketch Plan the area of land to be dedicated pursuant to this Section. Where wetlands falling under the jurisdiction of State or Federal agencies have been certified to exist on the property, the boundaries of such wetlands shall also be identified. Any subdivider wishing to request payment of funds in lieu of land dedication in accordance with Section 152.41 shall submit a letter of request along with the Sketch Plan.

### **§152.41 PAYMENT OF FEES IN LIEU OF LAND DEDICATION**

(A) *General.* The payment of fees, in lieu of the dedication of land under Section 152.40 above, may occur at the request of the subdivider or developer. The payment of fees in lieu of land dedication also may be required by the Town Board of Commissioners at the time of preliminary plan approval upon finding that all or part of the land

required to be dedicated under Section 152.40 is not suitable for public recreation and open space purposes, or upon finding that the recreational needs of the proposed development can be met by other park, greenway, or recreational facilities planned or constructed by the Town within reasonable proximity to the development.

(B) *Procedure for approval.* Any subdivider wishing to pay fees in lieu of land dedication shall submit a letter of request with the Sketch Plan submittal. As part of the Sketch Plan review the Planning Board and the Parks and Recreation Department shall make recommendations concerning land dedication or payment of fees in lieu of land dedication. Following Sketch Plan recommendations, the subdivider shall prepare the Preliminary Plan and include land dedication or payment of fees in lieu of land dedication as part of the Preliminary Plan submission for approval.

(C) *Time of payment.* The fees in lieu of land dedication shall be paid prior to recording any lot(s) in the subdivision to which the fees relate.

(D) *Amount of payment.* The amount of the payment shall be the product of:

(1) The number of acres to be dedicated, as required by Section 152.40 above;

(2) The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time such payment is due to be paid.

(E) *Disagreement as to amount.* In the case of disagreement between the town and the applicant regarding the fair market value of the property, such determination shall be made by a special appraisal committee consisting of one professional appraiser appointed by the Town Manager, one professional appraiser appointed by the applicant, and one professional appraiser appointed by the first two committee appointees (A professional appraiser is an individual who can show by credentials and experience that he or she has a knowledge of land appraisals of a similar type). The committee shall view the land and hear the contentions of both the town and the applicant. The findings of the committee shall be by a majority vote and shall be certified by the Town Board of Commissioners in writing 30 days of the date the third member is appointed to the committee. The costs of the professional land appraiser appointed by the applicant and one-half the cost of the professional appraiser appointed by the appraisers shall be borne by the applicant. The costs of the professional land appraiser appointed by the town and one-half the cost of the professional land appraiser appointed by the appraisers shall be borne by the town.

(F) *Use of funds.* All funds received in lieu of land dedication shall be deposited in a Park and Recreation Improvement Fund to be established by the town. The

deposits shall be used by the town for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general vicinity of the subdivision.

## §152.50 IMPROVEMENTS

(A) *Improvement Responsibility.* In order to facilitate the provision of street right-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street. Any right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner for development rights transfer purposes as provided in Section 152.30(B) of this ordinance.

(1) Class I (Freeway-Expressway):

Right-of-way – entire width reserved for future acquisition.

(2) Class II (Limited Access Arterial):

Right-of-way – entire width reserved for future acquisition.

(3) Class III-C (Commercial Arterial):

Right-of-way – 100' dedicated and the remainder reserved for future acquisition. (50' each side of centerline). Any development along a Class III-C Street which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

Improvements – installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the traffic demands of the particular development in which case the developer must install the necessary improvements at the time of development. If, however; a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town and County Engineer to construct all or a portion of the street if the developer wants to make use of the street for access to the development.

Class III (Major Arterial):

Right-of-way – The developer is

responsible for the dedication of up to 100 feet (50 feet each side of the centerline) as provided for in Section 152.30(B). Any development along a Class III street which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

Improvements – installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet the traffic demands of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town and County Engineer to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new Class III streets or extensions of Class III streets must utilize reverse frontage with the only access points being public streets or specifically approved street type entrances.

#### Class IV (Minor Arterial)

Right-of-way – The developer is responsible for the dedication of up to 70 feet (35 feet each side of the centerline) as provided for in Section 152.30 (A). Additional right-of-way which may be required for improvements to meet specific traffic demands of the development must be dedicated by the developer.

Improvements – installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet the traffic demands of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town and County Engineers to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new Class IV streets or extensions of Class IV streets must utilize reverse frontage with the only access points being public streets or specifically approved street type entrances.

#### Class V (Collector):

Right-of-way – dedicated by the developer.

Improvements – Constructed by the developer.

Class VI and Class VI-L (Local):

Right-of-way – dedicated by the developer.

Improvements – Constructed by the developer.

All streets must be constructed to comply with the minimum standards of the Charlotte-Mecklenburg Land Development Standards Manual and all appropriate applicable Town requirements. Public improvements shall be made in accordance with adopted plans, programs and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

#### (B) *Required Work on Ground.*

(1) Street and sidewalk infrastructure improvements are not required for any minor residential subdivision containing not more than three (3) lots where required improvements do not exist within 500 feet of the proposed subdivision. Further subdivision of lots within the minor subdivision shall not occur within twenty-four months.

(2) Except as provided in these regulations, improvements shall have been completed and approved in accordance with the standards of these regulations as specified below before any final plat of a subdivision shall be eligible for approval.

#### (C) *Streets.*

##### (1) Grading.

(a) Proposed street rights-of-way shall be graded to a minimum of eight (8) feet behind the curb.

(b) Longitudinal grades shall conform with the requirements of Section 152.30(C).

(c) The transverse grade or crown shall be at a slope of 3/8 inches to one foot. The maximum slope for cut or fill embankment shall be one foot of vertical distance to every 1 and 1/2 feet of lateral distance. Fill embankments shall be formed of suitable material placed in successive layers of not more than six (6) inches in depth for the full width of the cross sections including the width of the slope area. No stumps, trees, brush, rubbish, or other unsuitable materials or substances shall be placed in the embankment. Each successive six-inch layer shall be thoroughly compacted by a sheepsfoot tamping roller, 10-ton

power roller, pneumatic tired roller, or other methods approved by the county engineer. Embankments over and around all pipe and culverts shall be of select materials, placed and thoroughly tamped and compacted as directed by the county engineer or his representative. All grading and excavation shall conform to the *Standard Specifications for Roads and Structures* of the North Carolina State Highway Commission.

(2) Subgrade. For standards and requirements see the Charlotte-Mecklenburg Land Development Standards Manual.

(3) Roadway Base.

(a) All roadways shall be improved with a base course to the required width of the roadway.

(b) The material and construction methods for base course shall meet the requirements of the latest edition of the NCDOT Standard Specifications.

(c) The stone base shall be compacted to 100% of the maximum density obtainable with the Standard Proctor Test by rolling with ring or tamping roller or with a pneumatic tired roller with a minimum weight of ten tons. When completed, the base course shall be smooth, hard, dense, unyielding and well bonded. Certified test reports shall be submitted to the County Engineer and the Town Engineer.

(d) In lieu of a stone base course, a bituminous concrete base course, type I19.0X may be substituted. Construction shall conform to the requirements of Section 640 of the NCDOT Standard Specifications. (Ord. No. 1292, passed 5-12-03)

(e) Bituminous concrete base course, type I19.0X, shall be used in widening strips less than five (5) feet in width. (Ord. No. 1292, passed 5-12-03)

(4) Roadway Surface.

(a) All roadways shall be improved with a surface course to the required width of the roadway.

(b) Plant mixed asphalt shall conform in all respects to the Section 645 of the NCDOT Standard Specifications (S9.5X and SF9.5X). On Class I, II, III, III-C, IV and V streets the asphalt mix will be determined by truck volumes (ESALS). A prime coat shall be applied when the base has been in place for seven (7) days or more. The compacted surface course shall not be less than one and one-half (1 ½) inches thick.

(c) The Inspector for County

Engineering and the Town Public Works Department shall be notified prior to use of recycled asphalt. No recycled asphalt shall be used in the finished course.

(d) Standard curb and gutter shall be constructed on all arterial (Class I, II, III, III-C and IV), industrial access, office access, or multi-family access streets. Rolled curb and gutter or standard curb and gutter shall be constructed on all minor and secondary residential access streets (Class V, VI, and VI-L). Curb and gutter design shall conform to town standards.

(D) Sidewalks.

(1) *Requirements.* Sidewalks shall be constructed on both sides of all classes of streets.

(2) *Location of Sidewalks.* The outer edge of the sidewalk shall generally be located at the street right-of-way. However, a variance may be granted for location other than the edge of the right-of-way to avoid excessive grading and the destruction of trees, to allow placement of utility lines or surface water drainage facilities, or other unusual circumstances.

(4) *Material and Construction.* Sidewalks shall be constructed of not less than 3600 P.S. I. concrete and shall be five (5) feet wide and four (4) inches thick and constructed on an adequately graded base, except that where the sidewalk crosses a driveway it shall be six (6) inches thick. Subgrade shall be compacted to 95% of the maximum density obtainable with the Standard Proctor Test. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound. Troweled joints shall be provided at intervals of not less than five feet and expansion joints at intervals of not less than 30 feet. The sidewalk shall have a lateral slope of one quarter (1/4) inch per foot. Test reports shall be submitted to the County Engineer and the Town Engineer.

(5) *Accessible Ramps.* Accessible ramps are required where sidewalks intersect curbing on any street intersection and at Type III driveway connections. Ramps must comply with current ADA Standards.

(6) *Elevation.* The elevation of the sidewalk shall be flexible except that the sidewalk shall not be less than six (6) inches above the roadway crown and within fifty (50) feet of any intersection the elevation of the sidewalk shall not be more than eighteen (18) inches above the roadway crown unless approved by the Town Public Works Department.

(E) Storm Drainage.

(1) All storm drainage design shall conform with the standards and specifications as provided in the Matthews Post Construction Ordinance, Charlotte-

Mecklenburg Storm Water Design Manual, Charlotte-Mecklenburg Land Development Standards Manual, or the more restrictive of any standards that conflict.

(2) All work and materials shall conform to the latest edition of the NCDOT Standard Specifications unless otherwise specified in the Charlotte-Mecklenburg Land Development Standards Manual or by the Design Manual for the Post Construction Ordinance. (Ord. 1585, passed 8-13-07)

(F) *Water Supply System.*

(1) When any part of the subdivision lies within 1000 feet of the Charlotte-Mecklenburg public water system, it shall be properly connected to the public water system or an alternate community system approved by the Division of Environmental Health of the State Department of Environment and Natural Resources and shall meet all Charlotte Mecklenburg Utility Department standards and be constructed in such a manner as to serve adequately for both domestic use and fire protection on all lots shown on the subdivision plat. The size of the water mains shall be at least six (6) inches.

(2) Fire hydrants shall be installed in accordance with Charlotte-Mecklenburg Utility Department standards.

(G) *Sanitary Sewers.*

(1) When any part of the subdivision lies within 1000 feet of the Charlotte-Mecklenburg sanitary sewerage system, sanitary sewer shall be installed in a manner as to serve adequately all lots with connection to the public system.

(2) Sewer connections shall comply with the regulations of the State Department of Environment and Natural Resources (DENR) and shall be constructed under the supervision and approval of the Department of Environment and Natural Resources. All sewer collection lines shall be at least eight (8) inches in diameter.

(3) Where lots are not to be connected with a sewerage system, they must be at least 20,000 square feet in area, contain an area for the installation of approved septic tank and disposal fields, and must be approved in writing by the Mecklenburg County Department of Environmental Health.

(H) *Streetscape trees.* Streetscape trees are a protection against excessive heat and glare and enhance the attractiveness and value of property. Streetscape trees can also serve as a traffic calming measure, encouraging drivers to reduce speeding. Where the Town has adopted specific tree species and spacing/location requirements for existing roads, those plans shall be followed as new subdivisions are

designed. Where new streets are designed that are not part of an approved plan, then the species, locations, and spacing of trees shall follow the standards listed at 152.51. (Ord. No. 1618, passed 4-14-08)

(I) *Trees on building lots.* Existing tree cover shall be taken into account as the layout of new streets and lots is designed. Post Construction Ordinance provisions for Undisturbed Open Space may be met by preserving existing trees and planting new trees. Existing trees on the tract identified for designation as Undisturbed Open Space shall be clearly identified on the site and on all plans. (Ord. No. 1618, passed 4-14-08)

(J) *Street Lights.* Street lighting shall be installed in each new subdivision. This shall be the responsibility of the developer with placement coordinated with and approved by the Town Public Works Director as part of preliminary plan review.

## **§152.51 STREETScape TREE STANDARDS**

Except for the Downtown Overlay District, which has its own streetscape requirements, or where an adopted streetscape plan is in place, the following shall be required:

(A) A planting strip shall be created along the total length of the property line exclusive of access drives and their sight triangles. The planting strip can be adjacent to the public right-of-way or within the right-of-way if sufficient room exists between the curb and sidewalk. The width of the strip shall be a minimum of eight (8) feet, and if located adjacent to the public right-of-way, it shall be located within 8 feet of the property line.

(B) Trees shall be planted, if not existing, within the planting strip with large maturing trees. Large maturing trees shall be spaced no greater than 40 feet apart with a minimum of one tree planted on all properties with frontage greater than 30 feet. Each tree shall be a minimum of 2 inches caliper and have a minimum height of eight feet from the ground surface.

(1) If the use of large maturing trees is considered inappropriate for the site, then a written explanation of why they cannot be used shall be made to the Town.

(2) Where overhead power lines or other obstructions prevent the use of large maturing trees, then small maturing trees shall be used. Small maturing trees shall be spaced no greater than 30 feet apart.

(3) Only tree species identified by the appropriate utility company are allowed to be placed under or within 35 feet of an existing overhead line.



(4) Trees shall be selected so that a mixture of species shall be planted or preserved. If a property has greater than 300 feet of frontage on any one street, a minimum of three different species shall be planted. If less than 300 feet of frontage exists, then a single species may be used.

(5) When an existing or proposed sidewalk is within one (1) foot of the property line, then trees must be located a minimum of four (4) feet off the right-of-way.

(C) The planting strip shall not be paved or used for automobile parking and shall be planted or mulched and kept mowed and weed-and litter-free by the property owner. The planting strip may include grass or other vegetative or organic ground cover and/or beds of flower plants or bulbs. In addition to the required trees and surface treatment within the planting strip, shrubs and additional trees may be included at the option of the landowner when on private property.

(D) In the case of unusual site factors that would make the strict adherence to this section serve no useful purpose, the Town may waive all or part of the requirements of this section. The subdivider may request in writing a waiver explaining the mitigating circumstances on or off the site, supported by documented facts. Waivers may be granted where the alternative planting plan demonstrates it will adhered to the spirit and intent of this section.

(E) If streetscape trees are approved by the Town to be located in the public right-of-way, then the trees shall be inspected and approved by the Town's Landscape Manager before planting.

(Ord. No. 1618, passed 4-14-08)

## §152.52 LANDSCAPING STANDARDS

(A) *Preservation Standards.* Existing trees specified on an approved landscape plan to remain on site during any land disturbing activity are protected trees. Special criteria apply to protected trees either as individuals or in a stand. The standards provided at §153.075(M) of the Matthews Zoning Ordinance shall be followed and are adopted here by reference.

(B) *Planting Standards.* Planting standards apply uniform and commonly acceptable guidelines to the installation of new trees into the landscape. Standards help ensure tree survivability and long-term health. The standards provided at §153.075(N) of the Matthews Zoning Ordinance shall be followed, and are adopted here by reference.

(C) *Maintenance Standards.* The property owner and/or lessee shall maintain all tree and landscape areas in accordance with the approved landscape plan. Maintenance

shall include watering, weeding, mowing, fertilizing, treating, mulching, pruning, removal and replacement of dead or diseased trees. Maintenance shall be performed on a regular basis in order to maintain plant vigor and stability, and to present a neat and well-kept appearance at all times. The standards provided at §153.075(O) of the Matthews Zoning ordinance shall be followed, and are adopted here by reference.

(D) *Mitigation for Loss of Streetscape Trees.* The loss of a protected or approved new streetscape tree normally requires replacement by the subdivider during the three-year Landscape Establishment Guarantee period. Replacement streetscape trees shall not be planted until approved by the Town.

(1) If a tree is destroyed or dies within three (3) years after completion of construction, then replacement trees of total equal diameter shall be planted on the site. Tree destruction or death during this three (3) year period shall be assumed to be the result of the land-disturbing activity or improper planting/maintenance. Replacement is required unless:

(a) the tree destruction is easily verified as due to a casualty loss of nature (storm, lightning strike, and the like); or

(b) the subdivider provides documentation from a certified arborist of an alternate explanation for the tree's death.

(2) Any tree dying within the initial three (3) years shall be replaced by the subdivider with a planted tree of an approved species, and of a caliper equal to the lost tree or a minimum of 2-inch caliper, whichever is the smaller. If 2" caliper tree(s) are planted, a total caliper equivalent to the lost tree determines the total quantity of replacement trees needed.

(3) if a loss cannot be replaced with the same species for reasons of availability or practicality, a species of equal or higher value class can be substituted for the species lost. A value classification schedule is given in The Guide.

(4) Replacement plantings shall normally be made within one month of the loss or within the first month of the next planting season.

(5) Failure by the subdivider to replace trees as indicated here shall be cause for the Town to complete the replacement action using the subdivider's Landscape Establishment Guarantee.

(6) Beyond the three-year period, all streetscape trees within the public right-of-way shall be the responsibility of the Town for ongoing maintenance,

removal, and replacement. All streetscape trees on private property, after the three-year period, shall be the responsibility of the property owner for maintenance. No streetscape tree on private property may be removed or replaced by the property owner without Town approval.

(Ord. No. 1618, passed 4-14-08)

## **§152.60 INSPECTIONS**

(A) The County Engineer and the Town Engineer must be notified two working days in advance of the work so that all necessary inspections of the work may be made.

(B) County and Town inspectors must be allowed access to all parts of the work, and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in accordance with the specifications.

(C) No material may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.

(D) In case of any disputes arising as to the material furnished or the manner of performing the work, the inspector shall have the authority to reject the materials or reject completed work. The contractor shall remove any work or material condemned as unsatisfactory by the authorized inspector and shall rebuild and replace same to the standard required by the specifications, all at his own expense.

(E) In the event that work is suspended for more than 48 hours, the County Engineer and Town Engineer or other designated authority must be notified and any work re-inspected.

(F) For subdivisions being developed in phases or for development of adjoining tracts, and upon which lots structures are being and/or are to be constructed, a bond, letter of credit, or certificate of deposit filed with the County Engineer in the amount determined by the County Engineer and the Town Engineer, shall be required, or the bond by 152.26(A)(7) shall be retained, in order to insure that the completed streets shall be in acceptable condition at the time such subsequent phases of development are completed.

(1) In the event that there is not definite beginning date for the commencement of the future phases, and the Board of Commissioners finds it unreasonable to require the continuation of securities, the County Engineer may release the posted securities. This may be done only after the County Engineer and the Town Public Works Director have determined that all work guaranteed by the

securities filed has been completed within the subject phase in compliance with the standards set forth in these regulations, and that barricades approved by the County Engineer in accordance with Section 152.32(B) have been installed at the termination point of any street leading into future phases of the development.

(2) All subsequent development of future phases or development of adjoining tracts, whether or not those phases are shown on the preliminary plan required by Section 152.25, shall not be allowed, nor shall the removal of barricades required by Section 152.32(B) be allowed, and no access to adjoining property for development purposes shall be allowed via previously completed sections of a subdivision within the town until the developer shall first have filed a bond or irrevocable letter of credit or other form of security as described in division (F) of this section with the County Engineer in an amount determined by the County Engineer. The bond shall be a maintenance bond to guarantee the maintenance of all streets to be used for access to future phases or adjoining tracts during development of those tracts or phases. For determining the amount of bond required by this section, the County Engineer shall consider the following:

(a) The length of streets in the existing subdivision or previously completed sections of subject subdivision from the new subdivision site out to the nearest arterial street which is most likely to be used to provide access to the site;

(b) The condition of any existing streets which are likely to be utilized for access to the property being developed;

(c) Any existing defects noted by the Town Public Works Director provided for in division (G) of this section; and

(d) The number of lots in the proposed development.

(G) The maintenance bond required by this section shall not be released until the phase under development has met the criteria for acceptance of streets as outlined in Section 152.09, and it has been determined by the County Engineer and the Town Public Works Director that streets which were used for access to future phases or adjoining tracts are in an acceptable condition and that any damage suffered by those streets has been repaired. For the purpose of this section, any damage suffered by a street used for access to property being developed shall be presumed to have been caused by construction traffic except any defects noted by the Public Works Director. The Public Works Director shall on request from the developer inspect existing streets likely to be used by construction traffic and document the condition of streets prior to commencement of development of that subdivision. Any existing defects in streets shall be

noted, and the developer will not be responsible for repair of those existing defects. If construction traffic uses any town maintained streets prior to calling the Town Public Works Director for inspection and setting of fee for security, all defects noted by the Public Works Director on town maintained access streets shall be required to be included in the security bond and shall be required to be repaired by the subdivider prior to release of the maintenance bond.  
(Ord. No. 1010; passed 11-9-98)

## APPENDIX A

**DECLARATION OF UNDERSTANDING THAT  
ZONING VARIANCES ARE NOT ANTICIPATED IN THIS SUBDIVISION**

Date \_\_\_\_\_

Name of Developer \_\_\_\_\_

Name of Subdivision \_\_\_\_\_

Location of Subdivision \_\_\_\_\_

The above-named subdivision is being developed within the zoning and subdivision jurisdiction of the Town of Matthews. The above-named developer, by signing this statement, agrees that he/she is aware of the zoning dimensional requirements for potential structures likely to be constructed within the above-named development, and does not anticipate any zoning variances to be requested on individual lots due to insufficient buildable area.

1) This declaration is intended to verify that the lots being designed in the above-named subdivision will have adequate building envelopes, after applying all required limiting factors that can reasonably be expected to be known prior to construction of houses or other structures, including but not limited to: setbacks, yards, easements, floodplain lines, septic drain fields and reserve fields, demolition disposal sites, etc.

The zoning on this property is: \_\_\_\_\_.

The dimensional requirements of this zoning district are:

Min. lot size	_____
Min. lot width	_____
Min. side yard	_____
Min. front setback	_____
Avg. front setback	_____
Min. rear yard	_____
Min. unobstructed open space	_____
Max. height	_____
Other (specify)	_____

2) It is understood that the developer of the subdivision may or may not be involved in any subsequent design or siting of buildings and structures, and is not guaranteeing all possible structural configurations will fit each lot.

3) Where the developer of the land will not be the ultimate user, the developer, by signing this declaration, agrees to inform buyers of lots, houses, or other interests, that this subdivision was designed to meet zoning dimensional requirements, and that variances to zoning dimensional requirements were not anticipated based on the physical layout design of the property.

\_\_\_\_\_  
Signature of developer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Development Company